

UNITED STATES DISTRICT COURT

for the

Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOV 02 2011

United States of America

v.

Eldee Dickerson

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

Case No: 2:05CR06024-001

USM No: 11230-085

Date of Original Judgment: 09/13/2006

Date of Previous Amended Judgment: 02/02/2009

(Use Date of Last Amended Judgment if Any)

Alex B. Hernandez, III

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

(Complete Parts I and II of Page 2 when motion is granted)

Upon reviewing the briefing and the 18 U.S.C. §3553(a) factors, the Court determined that the 87 month sentence, imposed subject to the previous crack guidelines, is sufficient but not greater than necessary. Mr. Dickerson has a serious criminal history including two prior drug convictions. He likely would have qualified for a §851 sentencing enhancement, but the Government agreed in the plea agreement to not file notice substantially lowering Mr. Dickerson's mandatory minimum from 120 months to 60 months. In his plea agreement, Mr. Dickerson agreed to a sentencing range of 84 - 105 months. Mr. Dickerson's expulsion from the RDAP program for smoking "Spice" particularly concerns the Court. Though the 87 month sentence represents an upward variance according to the most recent crack sentencing guidelines, the Court feels that a variance is appropriate in this case.

Except as otherwise provided, all provisions of the judgment dated 09/13/2006 shall remain in effect.

IT IS SO ORDERED.

Order Date:

NOV 2, 2011


 Judge's signature

Effective Date:

(if different from order date)

Hon. Wm. Fremming Nielsen, Senior U.S. District Judge

Printed name and title